


UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

YOUNG D.J.
MOTION ALLOWED
By the Court


Deputy Clerk

UNITED STATES OF)
AMERICA)

VS.)

ERIC LINO,)
Defendant.)

CRIMINAL NO. 03-10377-WGY

**MOTION IN LIMINE TO PRECLUDE THE INTRODUCTION OF
CHECKS RECEIVED BY THE DEFENDANT FROM BAPTISE
MASONRY**

The Defendant requests that this Court bar from evidence twelve (12) checks made out to the Defendant from Baptiste Masonry.

As grounds, the Defendant states that he was not apprised of the checks until November 10, 2004, in violation of the Pretrial Order, which required the Prosecution to provide the Defense with a copy of all exhibits and a premarked list of exhibits by November 8, 2004. To date the Defense has not yet received copies of the checks. It has only received an indication from the Prosecution that it intends to introduce them.

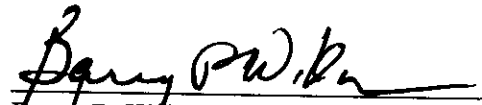
The Prosecution has also indicated that it intends to call Dennis Maietta of the Falmouth District Court Probation Department to testify about the checks, i.e., to testify that he received copies of them while the Defendant was on probation. The Defense has addressed in a separate Motion the issue of Mr. Maietta's proposed testimony, but reiterates here that his name was not provided to the Defense until November 10, 2004, also in violation of the Pretrial Order. The Defense moves to bar Mr. Maietta's testimony on the further ground that is prejudicial, since it will result in the jury's learning of the Defendant's criminal history.

The Defense moves as well to bar the checks from evidence on the grounds that they are irrelevant. (In that regard they have no probative value that would potentially outweigh the prejudicial effect of Mr. Maietta's testimony.) The Defense is at a loss to

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understand what these checks tend to prove, and can only surmise that it is the Prosecution's intent to use them merely to let the jury know that the Defendant has had past dealings with the law. This is improper, and the checks should therefore be precluded from evidence.

Respectfully submitted,
FOR THE DEFENDANT,

A handwritten signature in black ink, appearing to read "Barry P. Wilson", written over a horizontal line.

Barry P. Wilson

BBO# 529680

LAW OFFICES OF BARRY P. WILSON

240 Commercial Street

Suite 5A

Boston, Massachusetts 02109

(617) 248-8979

(617) 523-8700

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